

REMARKS

Reconsideration of the application is respectfully requested.

Claims 21-42, 45 and 46 were pending in the Application. Claims 21, 22, 31-33, 42, 45, and 46 were amended. Claims 21-42, 45 and 46 are now pending in the application.

The amendments of claims 22 and 33 were made according to the Examiner's instructions in order to overcome the objection. The amendments of claims 21, 31, 32, 42, 45, and 46 were made to better clarify the invention. They find support in Figures 5-8, which clearly show the added limitations. They further find support in the Specification, page 12, lines 29-30; page 13, lines 8-9, and 24-26; and page 15, line 25 to page 16, line 30, among other places.

The Specification was amended according to the instructions of the Examiner. The paragraph starting on page 15, line 25 was amended to clarify the invention. It finds support in Figures 5-8. The paragraph starting on page 18, line 23 was amended to better explain a newly added Figure 13. It finds support in Figure 4 of U.S. Patent 6,379,092 (Patel et al.), which has been incorporated in the parent Application by reference (see Page 18, lines 23-28).

The addition of Figure 13 finds support in Figure 4 of U.S. Patent 6,379,092 (Patel et al.), which has been incorporated in the parent Application by reference (see Page 18, lines 23-28).

DETAILED ACTION

Drawings

1. Annotated marked-up Drawings and Replacement Sheet designating Figures 1A and 2A as prior art have already been submitted with the Preliminary Amendment dated December 5, 2003. However, they are hereby re-submitted for the convenience of the Examiner. It should be noted that correction was also made regarding the reference character 12A to be 14A (upper side of the head of the fastener 10A), of 14A to be 16A (lower side of the head of the fastener 10A), and the addition of 12A to designate the head of the fastener 10A, as well as the addition of 40A to designate the front part of the barbs 36A. The Amendment regarding the correction of the reference characters finds support in Figure 1, wherein all reference characters designating miscellaneous elements are the same for respective elements in Figure 1A, with the difference the letter "A" follows the reference character in Figure 1A.

2. A new Drawing, represented by Figure 13 is hereby submitted. The addition of Figure 13 finds support in Figure 4 of U.S. Patent 6,379,092 (Patel et al.), which has been incorporated in the parent Application by reference (see Page 18, lines 23-28).

Figures 5 and 6 were amended (see also Specification amendments) to better illustrate the invention by labeling the proximal barb section as 36i and the distal barb section as 36ii.

Specification

3. The disclosure was objected to because of certain informalities.

The specification was amended on page 13, line 27, to change “front point 32” as – front point 40 --, and on page 14, line 3, to change “upper surface 42” as – upper surface 52 --.

Therefore Applicants respectfully request withdrawal of the objection.

The paragraph starting on page 15, line 25 was amended to clarify the invention. It finds support in Figures 5-8.

The paragraph starting on page 18, line 23 was amended to better explain a newly added Figure 13. It finds support in Figure 4 of U.S. Patent 6,379,092 (Patel et al.), which has been incorporated in the parent Application by reference (see Page 18, lines 23-28).

Claim Objections

4. Claim 22, 31 and 33 were objected to.

- In claim 22, line 2, the phrase “and a lower side” was deleted.
- In claim 31 the phrase “outwardly and inwardly portions” was removed so that there is no issue about the meaning of this phrase.
- In claim 33, line 2, the phrase “and a lower side” was deleted.

Therefore Applicants respectfully request withdrawal of the objection.

Claim Rejections - 35 USC § 102

5. The comments of the Examiner are acknowledged.

6. Claims 21-25, 28-36, and 39-42 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U. S. Patent No. 5,447,005 to Giannuzzi.

Applicants respectfully traverse the position of the Office Action. The claims of the present invention, have immense differences when compared to what Giannuzzi discloses and claims.

It is respectfully submitted that the Office Action considered the word “then” in the claims as meaning time sequence, while Figures 5-8 show without doubt that the meaning of the word “then” in this case is actually spatial sequence. In the case of Giannuzzi, it is certainly time sequence, as interpreted by the Office Action. In any event, Applicants amended the claims by removing the expressions containing the word “then” in order to eliminate any chance of confusion.

Giannuzzi’s elements 15 and 17 are not barbs. However, even if arguendo, they were considered to be barbs, they consist of single tabs, which are directed away from the legs at one point in time (when the legs are in proximity to each other) and toward the legs at another point in time (when the legs are expanded by a screw).

In contrast, the claims of the instant invention, as now amended, require directly or indirectly, without any doubt, that the barbs comprise a proximal barb section directed outwardly (away from the legs) and a distal barb section directed inwardly (toward the legs) all the time.

Further, the claims of the instant invention require that the barbs originate from a region selected from the side neck portion 22 and the side leg portion 32, while in the case of Giannuzzi, the tabs 15 and 17 have to originate from the middle portion of the legs, since otherwise they would not engage to the expanding screw and they would negate Giannuzzi’s invention.

Therefore, Applicants earnestly believe that claims 21-25, 28-36, and 39-42 are neither anticipated nor obviated by U. S. Patent No. 5,447,005 to

Giannuzzi, and respectfully request withdrawal of the rejection of claims 21-25, 28-36, and 39-42.

Claim Rejections - 35 USC § 103

7. The comments of the Examiner are acknowledged.

8. Claims 26, 27, 37 and 38 were rejected under 35 USC § 103(a) as allegedly being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U. S. Patent No. 6,379,092 to Patel et al.

Applicants respectfully traverse the position of the Office Action.

Since Applicants earnestly believe, as demonstrated in paragraph 6 above, that claims 21 and 32 are patentable, and since claims 26 and 27 depend from claim 21 directly or indirectly, and since claims 37 and 38 depend from claim 32 directly or indirectly, claims 26, 27, 37, and 38 are also patentable, and any further discussion would be moot.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 26, 27, 37 and 38 as being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U. S. Patent No. 6,379,092 to Patel et al.

9. Claims 45 and 46 were rejected under 35 USC § 103(a) as allegedly being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U. S. Patent No. 6,709,210 to Lowry et al.

Applicants respectfully traverse the position of the Office Action.

As mentioned in paragraph 6 above, the claims of the present invention, have immense differences when compared to what Giannuzzi discloses and claims.

It is respectfully submitted that the Office Action considered the word “then” in the claims as meaning time sequence, while Figures 5-8 show without doubt that the meaning of the word “then” in this case is actually spatial sequence. In the case of Giannuzzi, it is certainly time sequence, as interpreted by the Office Action. In any event, Applicants amended the claims by removing the expressions containing the word “then” in order to eliminate any chance of confusion.

Giannuzzi’ s elements 15 and 17 are not barbs. However, even if arguendo, they were considered to be barbs, they consist of single tabs, which are directed away from the legs at one point in time (when the legs are in proximity to each other) and toward the legs at another point in time (when the legs are expanded by a screw).

In contrast, the claims of the instant invention, as now amended, require directly or indirectly, without any doubt, that the barbs comprise a proximal barb section directed outwardly (away from the legs) and a distal barb section directed inwardly (toward the legs) all the time.

Further, the claims of the instant invention require that the barbs originate from a region selected from the side neck portion 22 and the side leg portion 32, while in the case of Giannuzzi, the tabs 15 and 17 have to originate from the middle portion of the legs, since otherwise they would not engage to the expanding screw and they would negate Giannuzzi’ s invention.

Therefore, Giannuzzi’ s disclosure (U. S. Patent No. 5,447,005) cannot be combined with that of Lowry’ s (U. S. Patent No. 6,709,210) to render claims 45 and 46 unpatentable.

Thus, Applicants respectfully request withdrawal of the rejection of claims 45 and 46 as being unpatentable over U. S. Patent No. 5,447,005 to Giannuzzi in view of U. S. Patent No. 6,709,210 to Lowry et al.

Conclusion

Applicants acknowledge the comments of the Examiner.



